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6 TAMARA WILLIAMS

7 **UNITED STATES DISTRICT COURT**
8 **DISTRICT OF NEVADA**

9 TAMARA WILLIAMS,

10 Plaintiff,

11 v.

12 BIKINI.COM, LLC; and DOES 1 through
13 10 inclusive,

14 Defendants.

Case No. 2:22-cv-00864-CDS-DJA

**JOINT DISCOVERY PLAN
PURSUANT TO RULE 26(f) and
SCHEDULING ORDER
(SUBMITTED IN COMPLIANCE
WITH LR 26-1(b))**

15 Counsel for the Plaintiff Tamara Williams (“Williams”) and Defendant
16 Bikini.com, LLC (“Bikini.com”), hereby submit the following Joint Discovery Plan
17 as required by Federal Rule of Civil Procedure 26(f) and Local Rule 26-1.
18

19 **A. Jurisdiction and Service**

20 The parties agree that the Court has subject matter jurisdiction over all of
21 Plaintiff’s claims under 28 U.S.C. § 1331 and 28 U.S.C. § 1338(a) where Plaintiff
22 has alleged claims that arise under the Copyright Act, 17 U.S.C. § 101, *et seq.* No
23 issues exist regarding personal jurisdiction or venue. No additional parties remain to
24 be served.

25 **B. Background**

26 According to the Complaint, Plaintiff is a highly successful freelance
27 photographer specializing in beauty and fashion photography. Plaintiff alleges she is
28 most well-known for her natural and clean model portraiture featured on her highly
popular Instagram account @tamarawilliams, which has amassed over 600,000

1 followers. Plaintiff claims she is the author and sole rights holder of four photographs
 2 of beauty models (“Photographs”) which are registered with the United States
 3 Copyright Office under registrations VA 2-114-447, VA 2-178-320, VA 2-130-596,
 4 and VA 2-248-051 respectively.

5 According to the Complaint, on or about July 2020, Plaintiff began to discover
 6 her Photographs being used without her permission in various posts made by the
 7 @bikinidotcom account (“Posts”). Plaintiff is informed and believes that the purpose
 8 of the Posts was the increase followers to the @bikinidotcom Instagram account in
 9 order to drive traffic to www.bikini.com. Defendant maintains the Instagram account
 10 @bikinidotcom, a lifestyle page that contains a curated collection of resort wear and
 11 swim-related photos. Although some posts direct followers to Defendant’s retail page
 12 www.bikini.com, many postings do not make any reference to the retail page and are
 13 not made for the purpose of increasing traffic to the retail page. As with two of the
 14 photos at issue here, where there is identifying information of the original
 15 photographer, Defendant tags the photographer and provides credit. When contacted
 16 by Plaintiff requesting removal of the photos at issue, Defendant promptly complied.
 17 Defendant refutes the claims brought against it by Plaintiff and asserts various
 18 defenses, as detailed in its Answer.

19 **C. Motions**

20 There are no pending motions.

21 **D. Discovery Cut-Off Date:**

22 The parties agree that they can complete discovery within the 180-day
 23 discovery period by December 23, 2022 as the matter is not complex.

24 **E. Amending the Pleadings and Adding Parties:**

25 The parties propose that the last day to amend the pleadings or add parties be
 26 ~~September 12, 2022.~~ September 26, 2022.

27 **F. Fed. R. Civ. P. 26(a)(1) Initial Disclosures:**

28 The parties will exchange Initial Disclosures no later than August 22, 2022.

G. Fed. R. Civ. P. 26(a)(2) Disclosure (Experts):

The parties propose the last day for Expert Disclosures be October 24, 2022. The parties propose that Rebuttal Expert disclosures shall be made 30 days after on or before November 24, 2022.

H. Dispositive Motions

The parties propose the deadline for filing dispositive motions be January 24, 2023.

I. Pretrial Order

The parties propose that the deadline for filing the joint pretrial order be February 23, 2023, or if a dispositive motion is filed, 30 days after the Court rules on any filed dispositive motion.

J. Fed. R. Civ. P. 26(a)(3) Disclosures

Pursuant to Local Rule 26-1(b), disclosures required by Fed. R. Civ. P. 26(a)(3) and any objections to them must be included in the joint pretrial order.

K. Class Actions

This case is not a class action and the parties do not anticipate the addition of class allegations.

L. Related Cases

This case is not related to any other case pending in this Court or in any other district.

M. Relief

As alleged in the Complaint, Plaintiff seeks:

1. Defendant and its officers, agents, servants, employees, and representatives, and all persons in active concert or participation with Defendant be permanently enjoined from copying, reproducing, displaying, promoting, advertising, distributing, or selling, or any other form of dealing or transaction in the any of Plaintiff's copyrighted works;

2. Actual damages and disgorgement of all profits derived by Defendant from its acts of copyright infringement pursuant to 17 U.S.C. §§ 504 (a)(1), or in the alternative and at Plaintiff's election, statutory damages for copyright infringement, including willful infringement, in accordance with 17 U.S.C. §§ 504(a)(2) and (c);

3. Reasonable attorneys' fees incurred herein pursuant to 17 U.S.C. § 505 or otherwise available by law;

4. Costs and interest pursuant to 17 U.S.C. §§ 504 (a)(1) and (b), 17 U.S.C. § 505, or otherwise available by law;

5. Prejudgment interest on all amounts owed; and

6. Any such other and further relief as the Court may deem just and appropriate.

Defendant denies that Plaintiff is entitled to any of the relief requested in its prayer for relief.

N. Alternative Dispute Resolution

The parties are currently engaged in informal settlement discussions. The parties believe referral to a formal ADR process would not be beneficial to this case unless and until informal settlement discussions have ceased or the parties have reached an impasse.

Both parties reserve the right to file a request for ADR with the Court should the need arise.

The parties certify that they met and conferred about the possibility of using alternative dispute-resolution processes including mediation, arbitration and if applicable, early neutral evaluation.

O. Alternative Forms of Case Disposition

The parties certify that they considered consent to trial by a magistrate judge under 28 U.S.C. § 636(c) and Fed. R. Civ. P. 73 and the use of the Short Trial Program. The parties do not consent to magistrate judge jurisdiction.

P. Electronic Evidence

1 The plaintiff demanded a jury trial. The parties certify that they have discussed
2 whether they intend to present evidence in electronic format to jurors for the purposes
3 of jury deliberations. The parties have reached the following stipulations regarding
4 providing discovery in an electronic format compatible with the court's electronic
5 jury evidence display system:

6 Disclosure or discovery of electronically stored information should be handled
7 as follows:

8 All electronic files are to be produced in their native format as kept in the
9 ordinary course of business. Metadata shall not be removed from any file prior to
10 production.

11 Prior to production of any electronically stored information, if such
12 information or materials cannot reasonably be produced in its native format, the
13 parties will meet and confer regarding to form of production, and in the event of a
14 dispute F.R.C.P. § 26(b)(2) shall control.

15 Dated: August 11, 2022

Respectfully submitted,

17 /s/ Mathew K. Higbee
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27 -and-
28

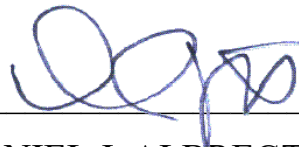
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(Pro Hac Vice to be submitted)
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Attorneys for Defendant Bikini.com LLC

IT IS SO ORDERED subject to the following modification. The
deadline to amend pleadings and add parties is September 26,
2022.

Date: August 15, 2022



DANIEL J. ALBREGTS

UNITED STATES MAGISTRATE JUDGE